

Remarks

Restriction Requirement

The applicants affirm their election of the Group I claims (claims 1-41).

By way of background, on November 13, 2002, the examiner called the applicants' representative to present a restriction requirement and request an election of one of the two groups identified by the examiner. The applicants' representative reviewed the documents filed with the application, and called the examiner on November 14, 2002. At that time, the applicants' representative reminded the examiner that the applicants previously had canceled claims 42-60 (identified as Group II) in a preliminary amendment filed with the application on November 14, 2000, and therefore, that a restriction requirement was unnecessary. However, the examiner requested that the applicants proceed with the restriction-requirement process, and elect one of the two groups identified by the examiner. As a courtesy to the examiner, and in an effort to facilitate compact prosecution, the applicants' representative acquiesced on this point, and elected the Group I claims (claims 1-41) without traverse, in that same phone conversation.

Drawings

The applicants thank the examiner for his careful review of the drawings, and have included proposed drawing corrections as a part of this reply (see Appendix).

Although the applicants made the proposed changes in red ink, this faxed reply does not reflect the color. If the examiner requires a set of drawings in which the proposed changes

are in red, the applicants ask the examiner to call the applicants' representative, who then will mail such a set.

With regard to the first and second chemical-separation members 38, 40, the text on member 38 reads "140°F Settling Tank", and the text on member 40 reads "100°F Settling Tank". Given the small size of members 38 and 40 as shown in the highly-schematic drawing, the applicants suggest that this text be moved from the drawing to an appropriate location in the text of the Detailed Description of the Drawings section.

Once the examiner has provisionally approved the proposed drawing corrections, the applicants will submit formal drawings; and the applicants request that the examiner formally withdraw the drawing objections at that time.

Specification

The applicants thank the examiner for making the three specification amendments noted on page 5 of the office action. In order to minimize the potential for confusion, the applicants note that they filed the preliminary amendment on November 14, 2000 (the filing date of the application), as opposed to November 14, 2002, the date noted on page 5 of the office action.

Claim Objections

Given the amendments presented above, and the remarks presented below, the applicants request that the examiner withdraw the claim objections.

Claim 10 is distinct from claim 2. For example, as may be seen from a review of claims 1, 2, and 10, the term "flue gas" is distinct from the term "dust-reduced flue gas". This point is made clear in the second paragraph in the body of claim 1. In particular, the "dust-reduced flue gas" is formed from the "flue gas". In further detail, the "dust-reduced flue gas" is formed by removing at least a portion of the dust from the "flue gas".

Claims 18 and 19, as amended, do not present an antecedent-basis issue.

Section 102

Page 6 of the office action states "[c]laims 39-41 are rejected under 35 U.S.C. 102(a and b) as anticipated by the applicants' admission of the prior art illustrated in applicants' Fig. 1 and admitted on pg. 2 ln 2 to pg. 3 ln. 3; pg 14 lns. 20 and 21 and pg. 29 lns. 5 and 6 in the applicants' specification."

The applicants request that the examiner withdraw the rejection because the text on page 14, lines 20 and 21 and page 29, lines 5 and 6, as well as the illustration shown in Fig. 1, are not prior art.

This point is apparent to one of ordinary skill in the art for at least the following reasons. The text on page 14, lines 20 and 21 states "[a]s mentioned briefly above, the first section 11 includes a sensible-cooling heat exchanger 12." The introductory clause "[a]s mentioned briefly above" refers the reader to the immediately-preceding paragraph, which begins as follows: "The flue-gas treating device 10 shown in Fig. 1, in accordance with the principles of the invention, includes a first section 11 having a sensible-

cooling heat exchanger 12 and a first electrostatic precipitator 14.” Accordingly, when the text of page 14, lines 20 and 21 is read in context, one of ordinary skill understands that this text is referring to an aspect of the invention, and in particular, to components of the particular version 10 of the inventive flue-gas treating device shown in Fig. 1.

In similar fashion, one of ordinary skill knows that the text on lines 5 and 6 of page 29 describes an aspect of the invention, and is not prior art. The isolated phrase cited by the examiner states: “[i]n a typical multiple-field flue-gas treatment system, such as the system shown in Fig. 1,”. The remarks presented immediately above (regarding the text on lines 20 and 21 of page 14) show that Fig. 1 is a version 10 of the flue-gas treating device in accordance with the principles of the invention. And given that the cited clause on page 29 includes the phrase “such as the system shown in Fig. 1”, one of ordinary skill in the art knows that the cited text on page 29 is referring to a multiple-field flue-gas treatment system, in accordance with the principles of the invention.

While the remarks presented above are sufficient to dispel any rumor that the cited text and Figure could be admitted prior art, the applicants have provided additional remarks below, for the sake of completeness. For example, the cited fragments of text on pages 14 and 29 are in the section of the specification entitled “Detailed Description of the Drawings”. And, as appreciated by one of ordinary skill, the drawings are summarized in the immediately-preceding section of the specification entitled “Brief Description of the Drawings”. This section states in part: “[t]he features and advantages of the present invention will be more fully apparent in view of the drawings, in which: Fig. 1 is a

schematic, flow diagram of a version of the flue-gas treatment system according to the principles of the invention". Given these unmistakable headings, as well as the unmistakable text presented in the Brief Description section, it is clear to one of ordinary skill in the art that the cited text on pages 14 and 29 and the Fig. 1 illustration describe and depict aspects of the applicants' invention, and most-definitely are not admitted prior art.

It also is worth noting that the examiner's colleagues recognized the page 14- and page 29- clauses, and the Fig. 1 illustration, as being directed to the applicants' invention, and in no way representing admitted prior art. In further detail, in the parent case (application no. 09/113,891), Examiner Ohorodnik, Primary Examiner Tran, and Supervisory Patent Examiner Knode studied the exact same specification, in examining the apparatus claims (claims 42-60). In analyzing the specification, all three of the examiners fully appreciated that the entire specification (with the exception of the "Description of the Related Art" section) referred to the applicants' invention. And at no time during the prosecution of the parent case, did the examiners contend that anything contained in the disclosure of the invention (e.g., Figs. 1-6, Summary of the Invention, Brief Description of the Drawings, Detailed Description of the Drawings, Claims, and Abstract of the Disclosure) was admitted prior art. See the parent-case office actions (i.e., the March 23, 2000 office action, May 5, 2000 office action, and February 13, 2001 office action).

Section 102/103

Page 8 of the office action states:

“Claims 1-38 are rejected under 35 U.S.C. 102(a and b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the Applicants' admission of the prior art illustrated in Applicants' Fig. 1 and admitted on pg. 2 ln. 2 to pg. 3 ln. 3; pg. 14 lns. 20 and 21 and pg. 29 lns. 6 and 6 in the Applicants' specification in view of the Applicants' definition of “sensible cooling” on pg. 14 ln 20 to pg. 15 ln. 4 in the Applicants' specification.”

For at least the reasons described above in the Section 102 discussion, none of Fig. 1, the text on page 14, lines 20 and 21, and the text on page 29 lines 5 and 6 is admitted prior art. To the contrary, as explained in detail above, these portions of the applicants' specification quite clearly are describing various components and versions of the applicants' invention. Accordingly, the applicants request that the examiner withdraw this rejection.

Next Steps

The applicants request that, once the examiner has considered the proposed drawing corrections, the examiner call the applicants' representative regarding the proposed corrections. In this fashion, if the examiner is in agreement with the proposed drawing changes, the applicants immediately may prepare and file formal corrected drawings. If, on the other hand, the examiner has any concerns regarding the proposed changes, the examiner and the applicants' representative may reach agreement on acceptable drawing changes during that phone conversation.

FAX RECEIVED

JUN 13 2003

TC 1700

On a related note, once the drawing changes have been approved, the applicants will amend the reference numbers in the specification, as appropriate.

Conclusion

Given the remarks presented above, the applicants look forward to hearing from the examiner that all of the pending claims (claims 1-41) are allowable. If, on the other hand, the examiner identifies a new ground for rejection of one or more of the claims, and chooses to issue an office action, the applicants expect that such an office action will be non-final, given that a final office action would be premature.

Respectfully submitted,

WOOD, HERRON & EVANS, LLP

By: 

David E. Pritchard

Reg. No. 38,273

dpritchard@whepatent.com

WOOD, HERRON & EVANS, LLP
441 Vine Street
2700 Carew Tower
Cincinnati, OH 45202-2917
513-241-2324 (phone)
513-421-7269 (facsimile)

K:\UOC\128D\Resp to 121202 OA.wpd